

FILE

**IN THE CIRCUIT COURT OF COFFEE COUNTY, ALABAMA
ELBA DIVISION**

**JO SPAINHOWARD,
Plaintiff,**

vs.

**GREEN TREE FINANCE, LLC
JOHN DOE; ABC,
Defendants.**

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) **CASE NO. CV-05-122**
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COMPLAINT

THE PARTIES

1. Defendant GreenTree Finance, LLC is the finance company who held the secured interest on the Plaintiff's 1998 Redman mobile home.
2. Defendant John Doe and ABC are individuals, general partnerships, limited partnerships, corporations or other legal entities who were at all times material to this cause responsible for the removal and continued wrongful physical possession of the 1998 Redman mobile home at issue in this suit.

**COUNT 1
TRESPASS TO REAL ESTATE**

3. On or about the 27th day of December 2004, the Defendants unlawfully entered upon the lands of the Plaintiff in Coffee County, Alabama, while the Plaintiff was hospitalized, to wrongfully take possession of the Plaintiff's 1998 Redman mobile home.
4. As a proximate result of said trespass by the Defendants' the Plaintiff's real estate was damaged and defaced. In particular, a fence was partially destroyed, power

and septic connections were damaged, a gas grill and burner stove were missing and/or destroyed after Defendants wrongful entry on the property and the property as a whole was damaged by the aggressive nature of the Defendants' entry onto the estate.

5. Because of the willful and oppressive nature of the Defendants' actions and the emotional distress suffered by the Plaintiff, the Plaintiff claims punitive damages of the Defendants.

WHEREFORE, Plaintiff demands judgment against the Defendants in the amount of \$60,000.00 compensatory damages, \$150,000.00 in punitive damages, plus costs.

COUNT 2
TRESPASS TO CHATTEL

The Plaintiff does hereby incorporate paragraphs three (3) through five (5) as if fully set forth herein, together with the prayers for relief.

6. On or about the 27th day of December, 2004, in Coffee County, Alabama, Defendant unlawfully touched and damaged the Plaintiff's chattels, to-wit: a 1998 Redman mobile home-serial number 14719990, a 52 inch television set, a satellite connected to the mobile home, a gas grill, a burner stove, and miscellaneous dishes, cookware, Tupperware, and silverware.

7. As a proximate result of the Defendants' said trespass, the Plaintiff's chattels were damaged as follows: the mobile home was taken apart and left exposed to the elements, the television set and other listed chattel was also left exposed to the elements of nature, thereby causing significant damage to the listed chattel. The gas grill and the burner stove were discovered missing and/or destroyed after Defendants' entry onto the property.

8. Plaintiff claims punitive damages of the Defendants because of the willful and oppressive nature of the Defendants' trespass and the emotional distress suffered by the Plaintiff due to the actions of the Defendants.

WHEREFORE, Plaintiff demands judgment against the Defendants in the amount of \$60,000.00 compensatory damages, \$150,000.00 in punitive damages, plus costs.

COUNT 3
CONVERSION

The Plaintiff does hereby incorporate paragraphs three (3) through eight (8) as if fully set forth herein, together with the prayers for relief.

9. On or about the 27th day of December, 2004, in Coffee County, Alabama, the Defendants wrongfully took and converted the following described chattel(s), which is the property of the Plaintiff: a 1998 Redman mobile home-serial number 14719990, a 52 inch television set, a satellite connected to the mobile home, a gas grill, a burner stove, and miscellaneous dishes, cookware, Tupperware, and silverware.

10. Plaintiff has demanded the return of said chattels and the Defendants has unlawfully refused to return the same.

11. Plaintiff claims punitive damages of the Defendants because of the Defendants' willful and oppressive conduct and the emotional distress suffered by the Plaintiff due to the actions of the Defendants.

WHEREFORE, Plaintiff demands judgment against Defendants in the amount of \$60,000.00 compensatory damages, plus interest at 6 % from December 27, 2004, the date of the conversion, \$150,000.00 in punitive damages, plus costs.

COUNT 4
FRAUD

The Plaintiff does hereby incorporate paragraphs three (3) through eleven (11) as if fully set forth herein, together with the prayers for relief.

12. On or about September, 2004, Plaintiff Jo SpainHoward, as co-signer for her deceased son, was in arrears \$ 1,864.52 on the mortgage payments on the 1998 Redman mobile home financed by Defendant Green Tree Finance, LLC. Plaintiff sought the legal counsel of William Moore concerning the matter and Plaintiff made a payment of \$2,000.00 on October 5, 2004 , which brought the account current. (attached hereto as "Exhibit A"). Following this payment, no statements were forthcoming from the Defendant for the November or December installment payment. Self-help repossession action was commenced in early December 2004. Upon knowledge of the repossession attempt, Plaintiff, by and through legal counsel, forwarded a copy of her \$2,000.00 payment in October, which had already cleared through the Defendant's financial institution. Additionally, Plaintiff sent payment to the Defendant in the amount of \$927.26 on December 12, 2004 for both the November payment, which was late, and the December payment, which was not yet due. (attached hereto as "Exhibit B"). As of that time, the account was current and it was agreed upon during a conversation between Attorney Moore and Defendant that no repossession action would be forthcoming.

13. However, on December 27, 2004, Defendants entered onto the property of Plaintiff and repossessed the mobile home at issue after falsely representing to Attorney Moore and Plaintiff that no repossession action would transpire because of the current status of the account.

14. The Plaintiff relied on the material representation by Defendants that no repossession would be forthcoming if the status of her account was brought current.

15. The Plaintiff incurred damages as a result of Defendants' misrepresentation in that her property was damaged by the elements and later sold at auction by Defendants. Plaintiff was deprived of the use and enjoyment of her property as a result of the actions of the Defendants.

16. Plaintiff claims punitive damages of the Defendants due to the willful and wanton conduct of the Defendants and the emotional distress suffered by the Plaintiff due to the actions of the Defendants.

WHEREFORE, Plaintiff demands judgment against the Defendants in the amount of \$60,000.00 compensatory damages, \$150,000.00 in punitive damages, plus costs.

COUNT 5
WRONGFUL REPOSSESSION

The Plaintiff does hereby incorporate paragraphs three (3) through sixteen (16) as if fully set forth herein, together with the prayers for relief.

17. On or about December 27, 2004, Defendants wrongfully repossessed Plaintiff's 1998 Redman mobile home through the use of fraud, trickery, artifice or stealth.

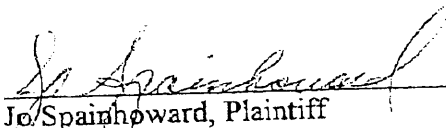
18. Plaintiff claims punitive damages of the Defendants due to the willful and wanton conduct of the Defendants and the emotional distress suffered by the Plaintiff due to the actions of the Defendants.

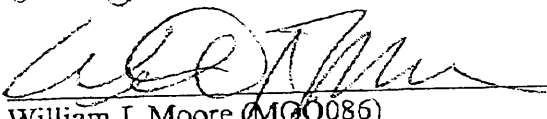
WHEREFORE, Plaintiff demands judgment against the Defendants in the amount of \$60,000.00 compensatory damages, \$150,000.00 in punitive damages, plus costs.

GENERAL PRAYER FOR RELIEF

WHEREFORE, THESE PREMISES CONSIDERED, Plaintiff requests this Honorable Court enter judgment against Defendants in the amount of \$60,000.00 compensatory damages, 6% interest on these compensatory damages from December 27, 2004, the date of conversion, \$ 150,000.00 punitive damages, costs, and any other relief the Court deems necessary and proper.

Respectfully submitted this the 23rd day of March, 2005.


Jo Spainhoward, Plaintiff



William J. Moore (MGO086)
Attorney for Plaintiff

William J. Moore
Attorney at Law
P.O. Box 310985
Enterprise, Alabama 36331
(334) 308-2020
Fax: (334) 308-9898

STATE OF ALABAMA)
COFFEE COUNTY)
)

BEFORE ME, the undersigned, a Notary Public, personally appeared the Plaintiff, who being by me first duly sworn, subscribed to the foregoing Complaint, and acknowledged before me that being duly informed of the contents of the Complaint, he [she] executed the same voluntarily.


WITNESS my hand and official seal of office, this 25th day of March, 2005.


Notary Public

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a true and correct copy of the foregoing document on the following by placing same in U.S. Mail, first-class, postage pre-paid and properly addressed this 20 day of April, 2005.

The Corporation Co.
2000 Interstate Park Drive
SUITE 204
Monrgomery, AL 36109


William J. Moore
Attorney for Plaintiff

State of Alabama Unified Judicial System Form C-34 Rev 6/88	SUMMONS - CIVIL -	Case Number E
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IN THE CIRCUIT COURT OF COFFEE 1 **COUNT**

Plaintiff

JO SAPINHOWARD

v. Defendant

GREEN TREE FINANCE, LLC

JOHN DOE: ABC

J.M. Counts
Court Clerk
Coffee Co. ALNOTICE TO The Corporation Co. 2000 Interstate Park Dr. STE 204Montgomery, AL 36109

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE PLAINTIFF'S ATTORNEY WILLIAM J MOORE WHOSE

ADDRESS IS 116 S Main St STE 304 Enterprise, AL 36330

THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

TO ANY SHERIFF OR ANY PERSON AUTHORIZED by the Alabama Rules of Civil Procedure:

- ☐ You are hereby commanded to serve this summons and a copy of the complaint in this action upon the defendant.
- ☐ Service by certified mail of this summons is initiated upon the written request of _____ pursuant to the Alabama Rules of Civil Procedure.

Date _____

By: _____

Clerk/Register

☒ Certified Mail is hereby requested.

 Plaintiff's/Attorney's Signature

RETURN ON SERVICE:

- ☐ Return receipt of certified mail received in this office on _____ (Date)
- ☐ I certify that I personally delivered a copy of the Summons and Complaint to _____ in _____ County, Alabama on _____ (Date)

Date _____

Server's Signature _____

Address of Server _____

Type of Process Server _____

